

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIVISION
COLUMBUS

Carl L. Black,

Civil Action 2:21-cv-1165

Plaintiff,

Judge Michael H. Watson

v.

Magistrate Judge Deavers

Reem, Inc., et. al.,

Defendants.

OPINION AND ORDER

Carl L. Black ("Plaintiff") filed a stipulated dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) seeking to dismiss all of its claims against Reem, Inc. ("Reem"), one of three defendants in this case. ECF No. 30. Rule 41 is not the proper vehicle to accomplish Plaintiff's task, however. Rule 41 is an avenue for dismissing an *action*; it is not the proper vehicle for dismissing less than all claims against all defendants.

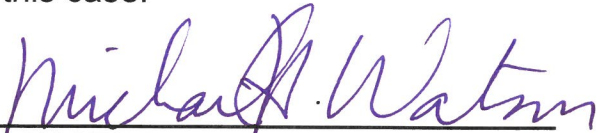
Rather, the United States Court of Appeals for the Sixth Circuit has suggested "that dismissal of a party, rather than of an entire action, is more proper pursuant to Rule 21." *AmSouth Bank v. Dale*, 386 F.3d 763, 778 (6th Cir. 2004) (citing *Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 265–66 (6th Cir. 2003), *recognized as overruled on other grounds in Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008)); see also *Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961) ("Rule 41(a)(1) provides for the

voluntary dismissal of an ‘action’ not a ‘claim’ . . . [Rule 21] is the one under which any action to eliminate [individual defendants] should be taken.”); see *also Miller v. Experian Info. Solutions, Inc.*, No. 3:13–cv–90, 2014 WL 7330744, at *1 (S.D. Ohio, July 17, 2014) (construing a Rule 41(a) stipulated voluntary dismissal of less than all defendants “as two joint, unopposed motions to dismiss pursuant to Fed. R. Civ. P. 21”). Rule 21 permits the Court, “[o]n motion or on its own, . . . on just terms, [to] add or drop a party.” Fed. R. Civ. P. 21. Thus, as Plaintiff seeks to dismiss all of its claims against only Reem, the more appropriate course is to move pursuant to Rule 21 to drop Reem as a party.

For the foregoing reasons, the Court construes Plaintiff’s stipulation of voluntary dismissal as a motion to drop Reem pursuant to Rule 21, **GRANTS** the same, and terminates Reem as a party in this suit **WITHOUT PREJUDICE**.

Plaintiff also filed an agreed dismissal order, signed by Plaintiff and Defendants SBWay Logistics Inc. and Mohammad Alkhatib. ECF No. 31. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), this agreement is self-executing. The Clerk is **DIRECTED** to close this case.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT